



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Marshall O. Townsend II

Attorney Docket No. GLFP-1-1001

Serial No.: 10/041,836

Group Art Unit: 3711

Filing Date: January 7, 2002

Examiner: Legesse, Nina F.

Title: Golf Swing Training Template

APPLICANT'S REPLY BRIEF

Seattle, Washington

August 5, 2003

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PATENT TRADEMARK OFFICE

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I. ARGUMENT

A. CLAIM 1 SHOULD BE ALLOWABLE BECAUSE NONE OF THE CITED REFERENCES TEACH OR SUGGEST A "LINK" OR A "SWING REFERENCE GUIDE" AS CLAIMED

The Examiner's answer properly explains that terms must be given their ordinary meaning and must be read in light of the specification. It then goes on to cite a dictionary definition for the claim term "link" as meaning "to form a connection or association." The applicant agrees that this definition is a reasonable ordinary meaning of the term. The prior art, however, does not teach or suggest such a "connection or association" as claimed.

The Examiner's answer points to Gibbs (U.S. Patent No. 1,484,390) for the proposition that a "link" is taught in the prior art. In doing so, it refers to the instructions of reference numeral 11 in the Gibbs patent and asserts that the instructions "could be considered as links." But it makes no attempt to explain how an "instruction" is a "link," and fails to describe any "connection or association" that is being made. In the language of pending claim 1, Gibbs does not teach or suggest "a link between each one of the plurality of shot selection types and one of the club path indicators."

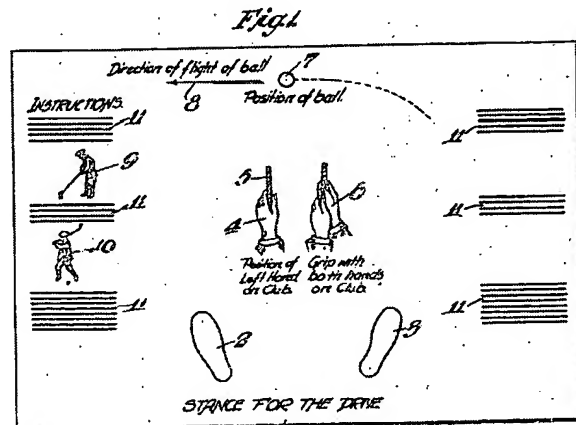


Figure 1 from the Gibbs patent is reproduced above. Gibbs provides a "series of instruction charts" on which a learner is adapted to stand and which are designed for the principal shots in the game of golf..." Gibbs, col. 1, lines 39-42. Each of the figures in the Gibbs patent

relates to a single, different golf shot. Thus, figure 1 is strictly related to a drive, figure 2 teaches a brassie shot, figure 3 teaches a midiron shot, and so on. *See* Gibbs, col. 2, lines 72-92. Further on, Gibbs reiterates that the invention provides “a series of sheets or pads.” Gibbs, col. 2, line 97. There is nothing in Gibbs that even remotely suggests that instructions for a plurality of shots can be incorporated onto a single template. Accordingly, Gibbs does not teach or suggest a plurality of swing path indicators, a swing reference guide comprising a plurality of shot selection types, or a link between the possible shot selection types and a swing path indicator.

The Examiner’s Answer also asserts that Gibbs discloses a swing reference guide comprising a plurality of shot selection types, contending that the multiple templates satisfy this limitation. But Gibbs does not disclose “a swing reference guide comprising a plurality of shot selection types.” Instead, Gibbs teaches the use of different templates for different shot selection types, but without an accompanying swing reference guide.

The preferred swing reference guide is shown in Figure 3 and described at page 6, beginning at line 1, of the pending application. It includes a plurality of shot selection types corresponding to different club faces, club paths, and ball flights. As noted above, claim 1 further requires a link between the swing reference guide and the club path indicators. The Gibbs device needs neither the reference guide nor the links because, in part, it provides a separate template for each swing type. The present invention is a great advancement, employing the consolidated reference guide and links to facilitate the inclusion of a great deal of information on a single template. Gibbs simply does not disclose a swing reference guide.

B. THE EXAMINER'S PROPOSED CONSTRUCTION STILL DOES NOT TEACH OR SUGGEST THE CLAIMED INVENTION

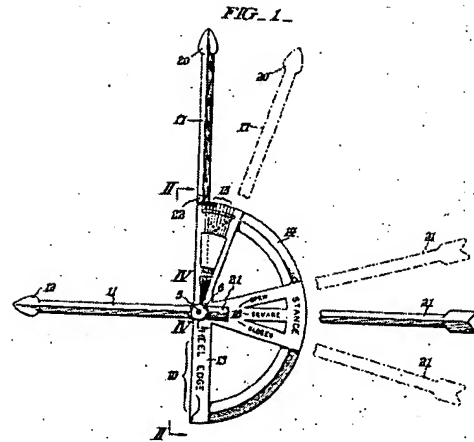
At page 7, the Examiner's Answer suggests that the Gibbs and Manley patents could be combined to produce the claimed invention. But this is simply not the case. The applicant will rely on arguments in his opening brief explaining why there simply would be no motivation to make the suggested combination other than in impermissible hindsight.

Even if the two references were combinable, however, they would still omit key claim limitations. The Examiner's Answer tacitly admits as much at the top of page 8, explaining that if the two were combined then the "instructions" of Gibbs would have to be modified "to include how to properly select and use different club paths." It goes on to assert that the instructions, as modified, "could be called links." As an initial matter, nothing in Gibbs or Manley suggests any such modification of the "instructions" would be desirable. Even if it were so taught, there is no suggestion to modify the instructions in manner that would turn them into "links" as claimed. This construction is hindsight of the worst sort—not merely combining with the benefit of hindsight, but combining multiple references and then arguing that the missing elements would be obvious. The combined references do not teach or suggest each and every limitation as the law requires. *In re Vaeck*, 947 F.2d 488, 493 (Fed. Cir. 1991). As such, the rejection is improper.

C. CLAIMS 4-6, 10, AND 25-31 SHOULD BE ALLOWABLE

According to the Examiner's Answer, Molinar discloses "a club face indicator (15 and 16)" as claimed in claim 5. The Molinar patent, however, does not teach any aspect of the importance of a golf club face, let alone a club face indicator as claimed. In fact, reference numeral 16 in Molinar refers to a *stance* indicator, not a *club face* indicator. Indeed, the word "stance" is printed on the Molinar device next to the reference numeral 16. Likewise, the text of

the Molinar patent explains that, "the bars 13, 14 also support three arms 16 which carry markings indicating the proper relative positions of the parts for opening and closing the golfer's stance." Molinar, at column 2, lines 34-41. Reference numeral 15 in Molinar refers to a "plate element" which, again, is used to ensure proper stance. The Molinar device only



assists in providing a proper stance and neither teaches nor suggests a club face indicator as claimed.

At page 9, the Examiner's Answer asserts that the stance indicators of Molinar can be considered to be club face indicators because they relate to the angle a club face will make with respect to the ball. This is off the mark, and reflects a lack of understanding of the game of golf. The club face angle is well known to be measured with respect to the swing plane, not with respect to the stance. If a golfer's stance rotates, the swing plane rotates with it and the club face remains square. Club face is adjusted by rotating the club in the golfer's hands, not by adjusting the stance. Indeed, nothing in the Molinar patent suggests that the club face angle is any way affected by the stance of the golfer. For that matter, the Examiner's position here is unsupported by anything within the prior art.

Claim 28, as yet another particular example, requires the inclusion of an illustration of a representative ball flight path for each of the plurality of shot selection types within the swing reference guide. There is no attempt in the Examiner's Answer to demonstrate that this limitation is taught or suggested by the prior art. Consequently, this grouping of claims should be allowable.

II. CONCLUSION

For the foregoing reasons, the Examiner's final rejections should be reversed and the pending claims should be allowed.

Respectfully submitted,

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MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via First Class Mail.: under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP APPEAL BRIEF – PATENTS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Title: GOLF SWING TRAINING TEMPLATE

TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
TO THE COMMISSIONER FOR PATENTS:

Transmitted with this letter is:

1. Applicant's Reply Brief
2. Return receipt postcard.

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Respectfully submitted,

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